

BOARD OF ADJUSTMENT REPORT



Meeting Date: 6/10/19
Item No.: 3

ACTION

Sonders Residence Variance 2-BA-2019 #2

Request to consider the following:

1. Request by applicant for permission, pursuant to the Rules of Procedure for the Board of Adjustment, Rule 406, to resubmit a new variance application containing a material change to the prior variance application previously decided by the Board of Adjustment on April 3rd, 2019.

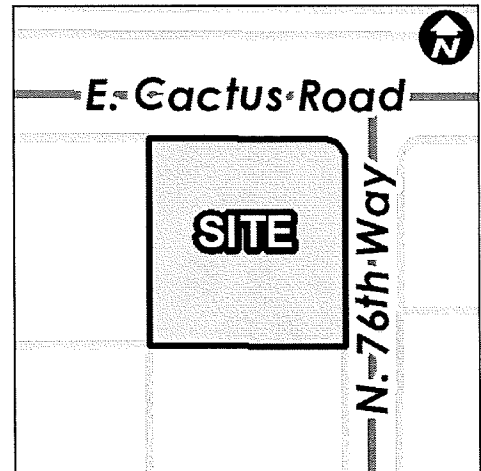
OWNER / APPLICANT CONTACT

Robert Sonders
(720) 530-0567

LOCATION

7655 E Cactus Road

BACKGROUND



Zoning Ordinance Requirements for Previous Variance Application

Pursuant to Section 5.204.E.1.c "On a corner lot, the required front yard of forty (40) feet shall be provided on each street. No accessory buildings shall be constructed in a front yard."

Pursuant to Section 7.200.A.2 "No accessory building shall be permitted in a required front or side yard."

Previous Proposal

The applicant had requested a variance from the provision requiring accessory structures be constructed outside the required front yard. His preliminary site plan indicates the intent to construct a new structure twenty-eight (28) feet from the front (northern) property line.

The request was denied on April 3rd, 2019 by a motion for denial with a six (6) - one (1) vote (see Attachment #1).

RESUBMITTAL CRITERIA

Pursuant to Rule 406 of the Rules of Procedure for the Board of Adjustment, no adjustment or appeal of a decision or interpretation that has been denied shall be further considered by the filling of a new application for one year **unless the new application contains a material change in the nature of the case.**

If a material change is claimed by the applicant, **the board shall first hear the applicant on the issue of the materiality of said change** before allowing a hearing on the merits of the case.

NEW PROPOSAL

The new proposal is a request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 3.100 pertaining to the definition and strict application of a front yard for a property with Single-family Residential (R1-35) zoning located at 7655 E. Cactus Rd.

Applicant States:

For the property located at 7655 East Cactus Road, Scottsdale AZ, define the single true front property line (east boundary) as 76th Way and define the Cactus Rd property line (north boundary) as side yard.

The current front yard defined as Cactus Road, for the referenced property, could be represented as a side yard configuration due to all access for the residence is situated from a 76th Way access point. All Cactus Road access points are no longer used and are scheduled for removal by the City of Scottsdale at some point in the future, per the City's discretion. A previous 25ft roadway easement has been officially abandoned. (ABN. 17/0746118). Also, a previous variance, for a 6-foot wall height along Cactus Road was granted (case numbers 2-BA-2018, 156-PA-2018). This variance request will simply define 76th Way property line as the true property frontage and define Cactus Road property line as side yard (see Attachment #3).


Staff Analysis:

The request itself is technically very different (modifying a definition versus a setback), but in a practical sense may achieve a substantively similar outcome as the prior proposal in terms of lessening setback requirements. Although the front yard definition itself does not directly address setbacks, the development standards use the front yard definition to decide how to apply the setbacks.

The applicant's new proposal looks to redefine the application of a front yard, per the Zoning Ordinance, and no longer includes a scope of work for any future construction. As such, the application appears as a conceptual change to more closely align the true front of the house with respect to its orientation and access. However, the practical effects of potential construction unaddressed in the application are an implicit part of modifying how setbacks are applied, and therefore cannot be omitted from the conversation.

The board must determine if the intent and potential future development outcomes, along with the omission of any structures in this iteration, are materially different enough to warrant additional review. If the Board deems the new application to contain a material change from the previous case, the new variance case can be heard as part of this public hearing to consider the merits of the request based on the four criteria.

APPROVED BY



Casey Steinke, Report Author

6-25-19

Date



Brad Carr, AICP, Board of Adjustment Liaison
480-312-7713, bcarr@scottsdaleaz.gov

6.25.2019

Date



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

6/25/2019

Date



Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

6/26/19

Date

ATTACHMENTS

1. Approved Minutes from the April 3rd, 2019 Board of Adjustment Hearing
2. Previous site plan
3. New site plan



SCOTTSDALE BOARD OF ADJUSTMENT
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA

Wednesday, April 3, 2019

SUMMARIZED MEETING MINUTES

PRESENT: Paul Garry, Chair
Gary Donahoe, Vice Chair
Alper Adli, Board Member
Joseph Dawson, Board Member
Michael Gonzalez, Board Member
Brian Kaufman, Board Member
Jay Leopold, Board Member

ABSENT: All Present

STAFF: Brad Carr
Sherry Scott
Casey Steinke
Jeff Barnes
Steve Perone
Melissa Berry

CALL TO ORDER

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chair Garry at 6:00 p.m.

ROLL CALL

A formal roll call confirmed all members present as stated above.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Board of Adjustment page on ScottsdaleAZ.gov, search "Board of Adjustment".

ADMINISTRATIVE REPORT

1. Identify supplemental information, if any, related to the April 3, 2019 Board of Adjustment agenda items, and other correspondence.

MINUTES

2. Review and possible approval of February 6, 2019 Board of Adjustment Regular Meeting Minutes.

BOARD MEMBER LEOPOLD MADE A MOTION TO APPROVE THE FEBRUARY 6, 2019 BOARD OF ADJUSTMENT REGULAR MEETING MINUTES AS PRESENTED, 2ND BY VICE CHAIR DONAHOE. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR GARRY, VICE CHAIR DONAHOE, BOARD MEMBER ADLI, BOARD MEMBER KAUFMAN, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

3. 2-BA-2019 (Sonders Residence Variance)

Request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 5.204.E.1.c. and Section 7.200.A.2. pertaining to accessory buildings in the required front yard for a property with Single-family Residential (R1-35) zoning, located at 7655 E. Cactus Road.

Applicant/owner: Buff Berg

BOARD MEMBER LEOPOLD MADE A MOTION TO DENY THE VARIANCE, 2ND BY VICE CHAIR DONAHOE. THE MOTION CARRIED BY CHAIR GARRY, VICE CHAIR DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER GONZALEZ, BOARD MEMBER ADLI, AND BOARD MEMBER LEOPOLD WITH AN AYE VOTE OF SIX (6) TO ONE (1) WITH BOARD MEMBER KAUFMAN DISSENTING.

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4. 3-BA-2019 (Burke Garage)

Request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 5.504.E.1 pertaining to the required front yard, for a property with Single-family Residential (R1-7) zoning, located at 7338 E. Pierce Street.

Applicant: Gary Stubbs

Owners: Matthew Burke

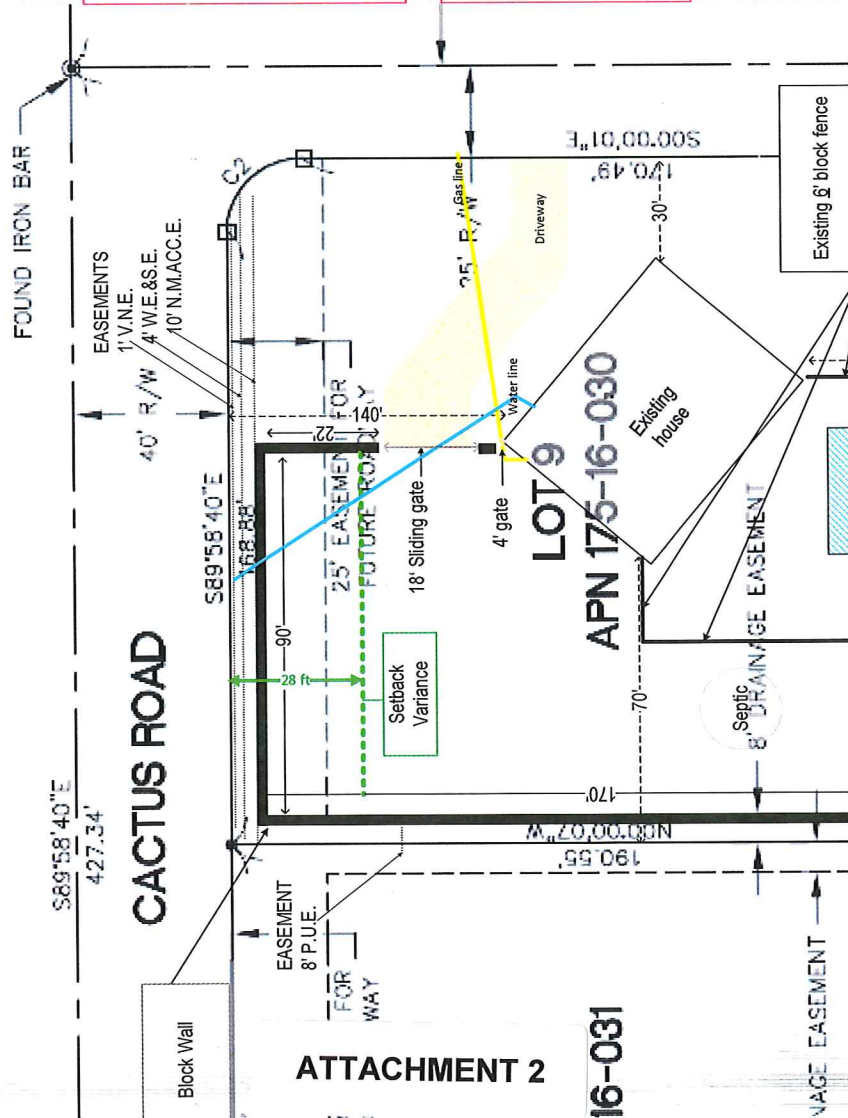
BOARD MEMBER KAUFMAN MADE A MOTION TO APPROVE THE VARIANCE SUBJECT TO THE SITE PLAN SUBMITTED WITH THE APPLICATION AND ROOF LINE THAT DOES NOT EXCEED THE HEIGHT OF THE EXISTING HOUSE, 2ND BY VICE CHAIR DONAHOE. THE MOTION CARRIED BY CHAIR GARRY, VICE CHAIR DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER GONZALEZ, BOARD MEMBER KAUFMAN AND BOARD MEMBER ADLI WITH AN AYE VOTE OF SIX (6) TO ONE (1) WITH BOARD MEMBER LEOPOLD DISSENTING.

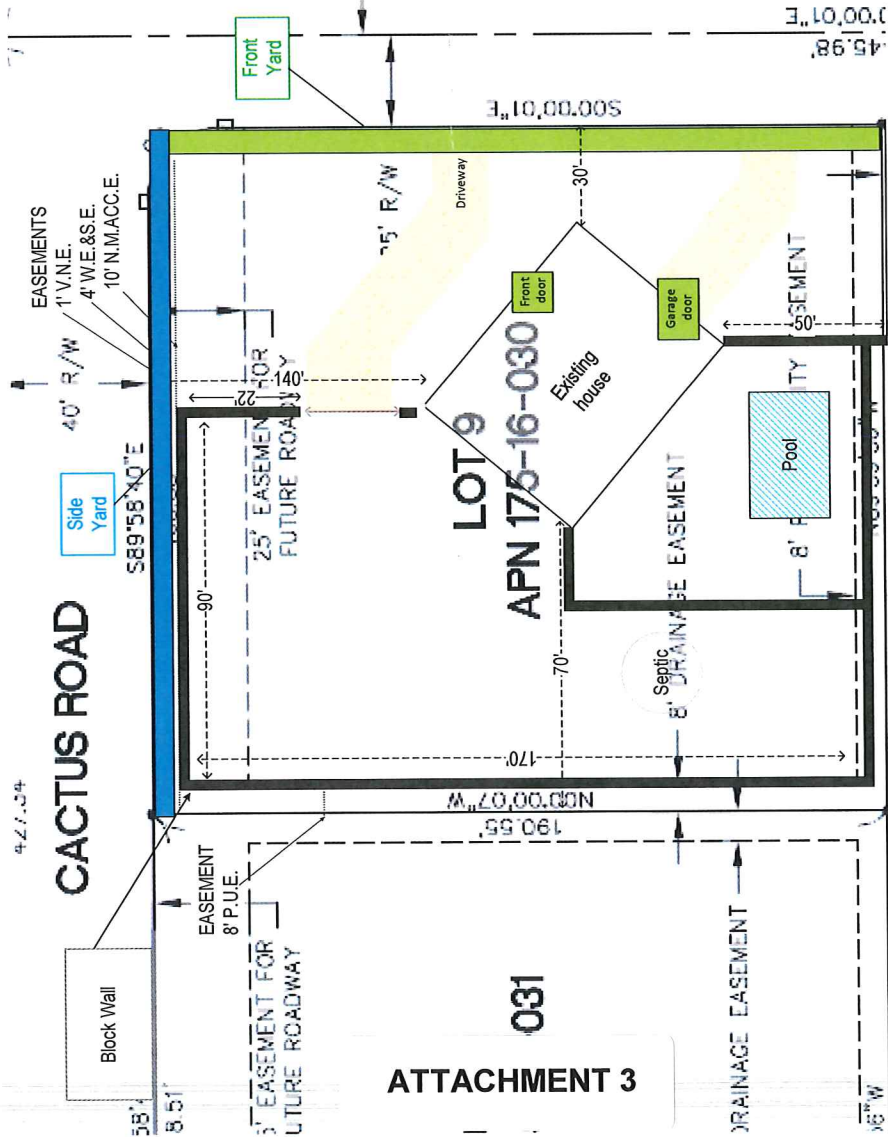
ADJOURNMENT

With no further business to discuss, the regular session of the Board of Adjustment adjourned at 7:28 PM.

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2-BA-2019
01/29/19





7655 E. Cactus Road Scottsdale AZ 85260
 Zoning: R1-35
 APN: 175-16-030
 Subdivision Name – Desert Star Acres – Lot 9

Owner/Builder – Robert F. Sonders
 720.530.0567
 Associated Plan/Case Numbers
 Desert Star Acres Abandonment: 12-AB-2016
 Variance Approval: 2-BA-2018 / 156-PA-2018